

1 THE HONORABLE RICARDO S. MARTINEZ  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

10 AT SEATTLE

11 UTHERVERSE GAMING LLC,

Case No. 2:21-cv-00799-RSM

12 v.  
13 Plaintiff,

**DECLARATION OF KATHERINE  
MCNUTT IN SUPPORT OF  
DEFENDANT EPIC GAMES, INC.'S  
MOTION TO SEAL REGARDING  
MOTIONS IN LIMINE**

14 EPIC GAMES, INC.,

15 Defendant.

1 I, Katherine E. McNutt, declare as follows:

2 1. I am an attorney at the law firm of Morrison & Foerster LLP, counsel for Defendant  
 3 Epic Games, Inc. (“Epic”). I have personal knowledge of each fact stated in this declaration, to  
 4 which I could and would competently testify if called as a witness.

5 2. I submit this declaration pursuant to LCR 5(g)(3) in support of Epic’s Motion to  
 6 File Under Seal Pursuant to Civil L.R. 5(g).

Epic Confidential Information		
Documents	Portion(s) to Be Sealed	Reason(s) for Sealing
Epic’s Motion in Limine No. 3	Yellow highlighted portions of document	Contains detailed information regarding confidential Epic internal financial information concerning company-wide revenues and <i>Fortnite</i> -wide revenues
Ex. 3 to the Declaration of Katherine McNutt in Support of Epic’s Motions in Limine	Yellow highlighted portions of document	Contains detailed information regarding Epic’s proprietary system and <i>Fortnite</i> ’s infrastructure, including confidential internal Epic technical documents, transcripts of depositions of Epic engineers discussing confidential details of <i>Fortnite</i> ’s infrastructure, and <i>Fortnite</i> source code

19 3. I, Katherine E. McNutt, counsel for Epic, met and conferred with Emily McNally,  
 20 Melenie Van, and Iqra Iqbal, counsel for Utherverse Gaming, LLC, by teleconference on August  
 21 30, 2024, regarding a motion to seal with respect to Epic’s Motions in Limine. Prior to that  
 22 conference, I informed counsel for Utherverse of the materials Epic planned to file under seal.  
 23 During and prior to the meet and confer, counsel discussed steps that could be taken to minimize  
 24 the amount of materials to be filed under seal and determined that certain documents need not be  
 25 filed under seal. Ms. Van confirmed that Gary Shuster, Brian Shuster, Utherverse Gaming LLC,  
 26 and Utherverse Digital, Inc. would not oppose Epic’s motion to seal the Epic Confidential  
 27

1 Information identified above.

2 I declare under penalty of perjury under the laws of the United States that the foregoing is  
3 true and correct. Executed on August 30, 2024 in Mammoth Lakes, California.

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5 */s/ Katherine E. McNutt*

6 KATHERINE E. MCNUTT

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on August 30, 2024 the within document was filed with the Clerk of  
3 the Court using CM/ECF which will send notification of such filing to the attorneys of record in  
4 this case.

5 */s/ Katherine E. McNutt*

6 KATHERINE E. MCNUTT